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10/582,225	06/08/2006	Kazuyuki Kashiwabara	2006-0907A	2854
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EXAMINER				
HERRERA, DIEGO D				
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2617				
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09/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,225

Applicant(s)

KASHIWABARA, KAZUYUKI

Examiner

DIEGO HERRERA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/CDC)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Priority

Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 6/8/2006 was filed. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11-12 are drawn to a "program" *per se* as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. Examiner suggests changing part of the preamble to include "computer readable medium encoded with a computer executable instructions" or "a computer readable medium embodied with a computer program".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deeds et al. (US 20030120500 A1), and in view of Sawada et al. (US 20080032717 A1).

Regarding claim 1. Deeds et al. discloses a communication terminal for communicating with another communication terminal via telephone or electronic mail (abstract, title, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches mobile terminal sending information that has restriction or locking content to be delivered on another device), the communication terminal comprising:

a communication section operable to receive, from another communication terminal, personal information including at least a telephone number or electronic mail address of the other communication terminal (title, fig. 4a, abstract, ¶: 5-8, 18-20, 24-34, Deeds et

al. teaches setting expiration time as an incentive for a reward, including contact information, and profile id; hence, a communication device receiving and displaying information from another device).

However, Deeds et al. does not disclose a presentation attribute that indicates whether presentation of the personal information to a third party is permitted; nonetheless, Sawada et al. teaches displaying information allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

a personal information storage section operable to store the personal information and presentation attribute acquired from the other communication terminal received by the communication section (fig. 1-3b, abstract, title, ¶: 36-46, 49-55, Deeds et al. teaches use of personal information storage means and presenting type);

However, Deeds et al. does not specifically disclose determining whether presentation of the stored personal information to the third party is permitted based on the presentation attribute, nonetheless, Sawada et al. teaches displaying information allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a

person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

a personal information presentation section operable to present (title, fig. 4a, abstract, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches setting expiration time as an incentive for a reward, including contact information, and profile id), to the third party via the communication section.

However, Deeds et al. does not disclose only personal information that has been determined by the personal information determination section to be permitted to be presented to the third party, the personal information having been acquired from the other communication terminal; nonetheless, Sawada et al. teaches displaying information, allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

Regarding claim 10. Deeds et al. discloses a method for placing restrictions on disclosure of information employed by a communication terminal which communicates with another communication terminal via telephone or electronic mail (abstract, title, ¶:

5-8, 18-20, 24-34, Deeds et al. teaches mobile terminal sending information that has restriction or locking content to be delivered on another device), the method comprising the steps of:

receiving, from another communication terminal, personal information including at least a telephone number or electronic mail address of the other communication terminal (title, fig. 4a, abstract, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches setting expiration time as an incentive for a reward, including contact information, and profile id).

However, Deeds et al. does not disclose only personal information that has been determined by the personal information determination section to be permitted to be presented to the third party, the personal information having been acquired from the other communication terminal; nonetheless, Sawada et al. teaches displaying information, allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

storing the received personal information and presentation attribute acquired from the other communication terminal (¶: 43-44, Deeds et al. teaches storing means for personal information and suitable format);

However, Deeds et al. does not specifically disclose determining whether presentation

of the stored personal information to the third party is permitted based on the presentation attribute, nonetheless, Sawada et al. teaches displaying information allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

presenting to the third party only personal information that has been determined in the determining step to be permitted to be presented to the third party (fig. 2-3b, abstract, title, ¶: 28-34, 43-46, Deeds et al. teaches forwarding information).

Regarding claim 11. Deeds et al. discloses a program to be executed by a communication terminal which communicates with another communication terminal via telephone or electronic mail, for placing restrictions on disclosure of information (abstract, title, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches mobile terminal sending information that has restriction or locking content to be delivered on another device), the program causing execution of the steps of:

receiving, from another communication terminal, personal information including at least a telephone number or electronic mail address of the other communication terminal (title, fig. 4a, abstract, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches setting expiration time as an incentive for a reward, including contact information, and profile id). However,

Deeds et al. does not disclose only personal information that has been determined by the personal information determination section to be permitted to be presented to the third party, the personal information having been acquired from the other communication terminal; nonetheless, Sawada et al. teaches displaying information, allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

storing the received personal information and presentation attribute acquired from the other communication terminal (¶: 43-44, Deeds et al. teaches storing means for personal information and suitable format);

However, Deeds et al. does not specifically disclose determining whether presentation of the stored personal information to the third party is permitted based on the presentation attribute, nonetheless, Sawada et al. teaches displaying information allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught

by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

presenting to the third party only personal information that has been determined in the determining step to be permitted to be presented to the third party (fig. 2-3b, abstract, title, ¶: 28-34, 43-46, Deeds et al. teaches forwarding information).

Regarding claim 12. Deeds et al. discloses a recording medium having recorded thereon a program to be executed by a communication terminal which communicates with another communication terminal via telephone or electronic mail (abstract, title, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches mobile terminal sending information that has restriction or locking content to be delivered on another device), the program causing execution of the steps of:

receiving, from another communication terminal, personal information including at least a telephone number or electronic mail address of the other communication terminal (title, fig. 4a, abstract, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches setting expiration time as an incentive for a reward, including contact information, and profile id).

However, Deeds et al. does not disclose only personal information that has been determined by the personal information determination section to be permitted to be presented to the third party, the personal information having been acquired from the other communication terminal; nonetheless, Sawada et al. teaches displaying information, allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been

obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

storing the received personal information and presentation attribute acquired from the other communication terminal(¶: 43-44, Deeds et al. teaches storing means for personal information and suitable format);

However, Deeds et al. does not specifically discloses determining whether presentation of the stored personal information to the third party is permitted based on the presentation attribute, nonetheless, Sawada et al. teaches displaying information allowing or permitting users to view restricted data by means of restriction flags (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include by attribute presentation means indication of users permission status, as taught by Sawada et al. for the purposes of, or motivation to avoid or reduce nuisance messages (¶: 3).

presenting to the third party only personal information that has been determined in the determining step to be permitted to be presented to the third party (fig. 2-3b, abstract, title, ¶: 28-34, 43-46, Deeds et al. teaches forwarding information).

Consider claim 2. The communication terminal according to claim 1, wherein the personal information determination section allows a display section included in the

communication terminal to display the telephone number or electronic mail address acquired from the other communication terminal (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying identification information), only when the presentation attribute indicates that presentation is permitted (fig. 2, 4-7, ¶: 27-35, Sawada et al. teaches displaying whether it is permitted to view restricted information or content to be retrieved).

Consider claim 3. The communication terminal according to claim 1, wherein, the personal information storage section is further operable to store a presentation attribute of own personal information that has been passed to another communication terminal (fig. 1-3b, abstract, title, Deeds et al. teaches information being displayed and personalized (i.e. mom, nick) and settings have been locked-in and set for a predetermined timed of use), and when personal information of the other communication terminal is displayed, the presentation attribute of the own personal information that has been passed to the other communication terminal is displayed together (fig. 1-3b, abstract, title, Deeds et al. teaches information being displayed and personalized (i.e. mom, nick) and settings have been locked-in and set for a predetermined timed of use and forward indicator is shown).

Consider claim 4. The communication terminal according to claim 3, wherein, the own personal information includes an expiration time of the own personal information (¶: 5-8, Deeds et al. teaches expiry time or period of time for information to be used or unlocked), and the communication terminal further comprises a personal information update section

which is operable to check whether the expiration time of the own personal information that has been passed to the other communication terminal has expired and is operable to notify a user of the communication terminal that the expiration time of the own personal information that has been passed to the other communication terminal has expired.

Consider claim 5. The communication terminal according to claim 1, wherein, the personal information acquired from the other communication terminal includes an expiration time of the personal information (title, fig. 4a, abstract, ¶: 5-8, 18-20, 24-34, Deeds et al. teaches setting expiration time as an incentive for a reward, including contact information, and profile id), and the communication terminal further comprises a personal information update section operable to place restrictions on placing a telephone call or transmitting an electronic mail by using the personal information acquired from the other communication terminal if the expiration time of the personal information has expired (title, abstract, fig. 4a, ¶: 49-55, Deeds et al. teaches receiving information about restrictions and expiry period and lock information or content that has restriction parameters).

Consider claim 6. The communication terminal according to claim 5, wherein the personal information update section is operable to notify a user of the communication terminal that the expiration time of the personal information acquired from the other communication terminal has expired and resulted in restrictions being placed on the personal information (title, abstract, fig. 4a, ¶: 49-55, Deeds et al. teaches receiving information about restrictions and expiry period and lock information or

content, hence, when the expiry is met the receiving party will know that the message locked has expired and other restriction to the message in placed).

Consider claim 7. The communication terminal according to claim 5, wherein the personal information update section is operable to delete (§: 59, Sawada et al. teaches deleting restricted information), from the personal information storage section, personal information whose expiration time has expired (title, abstract, fig. 4a, §: 49-55, Deeds et al. teaches receiving information about restrictions and expiry period and lock information or content, hence, when the expiry is met the receiving party will know that the message locked has expired and other restriction to the message in placed).

Consider claim 9. The communication terminal according to claim 1, wherein the communication section transmits or receives the personal information and the presentation attribute by utilizing a radio communication network through which a telephone conversation is carried out or an electronic mail is transmitted or received (§: 18-20, Sawada et al. teaches wireless communication network wherein the restricted information and data is sent and received by other mobile terminals granted permission by users input to restrict certain information).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deeds et al. (US 20030120500 A1), Sawada et al. (US 20080032717 A1), and in view of Emerson, III (US 20030043974 A1).

Consider claim 8. The communication terminal according to claim 1, However, the combination of Deeds et al. and Sawada et al. do not disclose wherein the communication section transmits or receives the personal information and the

presentation attribute by utilizing short-distance radio communication, without employing a radio communication network through which a telephone conversation is carried out or an electronic mail is transmitted or received, however, Emerson teaches short range communication via Bluetooth (¶: 46, Emerson teaches Bluetooth capabilities to transmit identity or contact personal information, hence, short-distance radio communication bypassing radio communication network). One skilled in the art would be motivated to use Bluetooth and other means of short-range communication means in order to have a more efficient and better use of network resources.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617